

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1153

AN ACT to amend the Indiana Code concerning gaming and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 4-32.2-1-1, AS AMENDED BY P.L.227-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) This article applies only to a qualified organization.

(b) This article applies only to the following approved gambling events conducted as fundraising activities by qualified organizations:

(1) Bingo events, charity game nights, door prize events, raffle events, festivals, and other gaming events approved by the commission.

(2) The sale of pull tabs, punchboards, and tip boards:

(A) at bingo events, charity game nights, door prize events, raffle events, and festivals conducted by qualified organizations; or

(B) at any time on the premises owned or leased by a qualified organization and regularly used for the activities of the qualified organization.

This article does not apply to any other sale of pull tabs, punchboards, and tip boards.

(c) This article does not apply to a promotion offer subject to IC 24-8.

**(d) This article does not apply to the following:**

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**(1) A type II gambling game authorized by IC 4-36.**

**(2) A raffle or other gambling game authorized by IC 4-36-5-1(b).**

SECTION 2. IC 4-32.2-1-2, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. **Except as provided in IC 4-32.2-4-13(e)**, the purpose of this article is to permit a licensed qualified organization:

- (1) to conduct allowable events; and
- (2) to sell pull tabs, punchboards, and tip boards;

as a fundraising activity for lawful purposes of the organization.

SECTION 3. IC 4-32.2-2-21, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. "Operator" means an individual who is:

- (1) designated under IC 4-32.2-5-1.5 to serve as the operator for an allowable event; and**
- (2) responsible for conducting an allowable event for a qualified organization under this article in accordance with Indiana law.**

SECTION 4. IC 4-32.2-2-30, AS AMENDED BY P.L.227-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 30. **Except as provided in IC 4-32.2-5-14(b)**, "worker" means an individual who helps or participates in any manner in conducting or assisting in conducting an allowable event under this article.

SECTION 5. IC 4-32.2-3-3, AS AMENDED BY P.L.227-2007, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The commission shall adopt rules under IC 4-22-2 for the following purposes:

- (1) Administering this article.
- (2) Establishing the conditions under which charity gaming in Indiana may be conducted, **including the manner in which a qualified organization may supervise a euchre game conducted under IC 4-32.2-5-14(b).**
- (3) Providing for the prevention of practices detrimental to the public interest and providing for the best interests of charity gaming.
- (4) Establishing rules concerning inspection of qualified organizations and the review of the licenses necessary to conduct charity gaming.
- (5) Imposing penalties for noncriminal violations of this article.
- (6) Establishing standards for independent audits conducted under IC 4-32.2-5-5.

(b) The commission may adopt emergency rules under

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IC 4-22-2-37.1 if the commission determines that:

- (1) the need for a rule is so immediate and substantial that rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 are inadequate to address the need; and
- (2) an emergency rule is likely to address the need.

SECTION 6. IC 4-32.2-4-9, AS AMENDED BY P.L.227-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) The commission may issue an annual raffle license to a qualified organization if:

- (1) the provisions of this section are satisfied; and
- (2) the qualified organization:
  - (A) submits an application; and
  - (B) pays a fee set by the commission under IC 4-32.2-6.

(b) The application for an annual raffle prize license must contain the following:

- (1) The name of the qualified organization.
- (2) The location where the raffle events will be held.
- (3) The names of the operator and officers of the qualified organization.

(c) A license issued under this section:

- (1) ~~may~~ **must** authorize the qualified organization to conduct raffle events ~~on more than one (1) occasion at any time~~ during a period of one (1) year;
- (2) must state the locations of the permitted raffle events;
- (3) must state the expiration date of the license; and
- (4) may be reissued annually upon the submission of an application for reissuance on the form established by the commission and upon the licensee's payment of a fee set by the commission.

**(d) A license issued under this section is not required for raffles permitted under section 13 of this chapter at events held under a bingo license, a special bingo license, a charity game night license, a door prize license, or an annual door prize license.**

SECTION 7. IC 4-32.2-4-13, AS AMENDED BY P.L.227-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) A bingo license or special bingo license may also authorize a qualified organization to conduct raffle events and door prize drawings and sell pull tabs, punchboards, and tip boards at the bingo event.

(b) A charity game night license may also authorize a qualified organization to:

- (1) conduct raffle events and door prize drawings; and

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(2) sell pull tabs, punchboards, and tip boards;  
at the charity game night.

(c) A raffle license or an annual raffle license may also authorize a qualified organization to conduct door prize drawings and sell pull tabs, punchboards, and tip boards at the raffle event.

(d) A door prize license or an annual door prize license may also authorize a qualified organization to conduct a raffle event and to sell pull tabs, punchboards, and tip boards at the door prize event.

**(e) A PPT license may also authorize a qualified organization to conduct at any time on the premises described in section 16.5(b) of this chapter a winner take all drawing in which the qualified organization retains no portion of the amounts wagered. The total amount awarded to a patron who participates in a winner take all drawing may not exceed three hundred dollars (\$300).**

SECTION 8. IC 4-32.2-5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.5. For each allowable event conducted under this article, a qualified organization shall designate an individual to serve as the operator of the allowable event. An individual designated under this section must be qualified to serve as an operator under this article.**

SECTION 9. IC 4-32.2-5-6, AS AMENDED BY P.L.227-2007, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 6. (a) Except as provided in IC 4-32.2-4-9 and IC 4-32.2-4-16.5, a qualified organization may not conduct more than three (3) allowable events during a calendar week and not more than one (1) allowable event each day.**

**(b) Except as provided in IC 4-32.2-4-9, IC 4-32.2-4-12, and IC 4-32.2-4-16.5, allowable events may not be held on more than two (2) consecutive days.**

**(c) A qualified organization may conduct one (1) additional festival event during each six (6) months of a calendar year.**

SECTION 10. IC 4-32.2-5-14, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 14. (a) An operator or a worker may not directly or indirectly participate, other than in a capacity as an operator or a worker, in an allowable event that the operator or worker is conducting.**

**(b) A patron at a charity game night may deal the cards in a card game if:**

- (1) the card game in which the patron deals the cards is a game of euchre;**
- (2) the patron deals the cards in the manner required in the**

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ordinary course of the game of euchre; and

(3) the euchre game is played under the supervision of the qualified organization conducting the charity game night in accordance with rules adopted by the commission under IC 4-32.2-3-3.

A patron who deals the cards in a euchre game conducted under this subsection is not considered a worker or an operator for purposes of this article.

SECTION 11. IC 4-32.2-6-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 0.5. As used in this chapter, "gross revenue" does not include any amount wagered on a winner take all drawing conducted by a qualified organization under IC 4-32.2-4-13(e).

SECTION 12. IC 4-35-7-13, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) The definitions in IC 3-5-2 apply to this section to the extent they do not conflict with the definitions in this article.

(b) As used in this section, "candidate" refers to any of the following:

- (1) A candidate for a state office.
- (2) A candidate for a legislative office.
- (3) A candidate for a local office.

(c) As used in this section, "committee" refers to any of the following:

- (1) A candidate's committee.
- (2) A regular party committee.
- (3) A committee organized by a legislative caucus of the house of the general assembly.
- (4) A committee organized by a legislative caucus of the senate of the general assembly.

(d) Money distributed to a horsemen's association under section 12 of this chapter may not be used for any of the following purposes:

- (1) To make a contribution to a candidate or a committee.
- (2) For lobbying (as defined in IC 2-7-1-9).

SECTION 13. IC 4-36 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

## **ARTICLE 36. TYPE II GAMING IN ESTABLISHMENTS LICENSED TO SELL ALCOHOLIC BEVERAGES**

### **Chapter 1. General Provisions**



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**Sec. 1.** Under 15 U.S.C. 1172, approved January 2, 1951, the state of Indiana, acting by and through the elected and qualified members of the legislature, declares that the state is exempt from 15 U.S.C. 1172.

**Sec. 2.** All shipments of gambling games authorized under this article to distributors and retailers in Indiana, the registering, recording, and labeling of which have been completed by the manufacturer or dealer in accordance with 15 U.S.C. 1171 through 15 U.S.C. 1178, are legal shipments of gambling devices into the state of Indiana.

**Sec. 3.** This article does not apply to the following:

- (1) The Indiana state lottery established under IC 4-30.
- (2) Pari-mutuel horse racing under IC 4-31.
- (3) Charity gaming under IC 4-32.2.
- (4) Riverboat gambling under IC 4-33.
- (5) Slot machine wagering under IC 4-35.

**Sec. 4.** Nothing in this article may be construed to authorize the use of an electronic gaming device in a type II gambling operation.

#### **Chapter 2. Definitions**

**Sec. 1.** The definitions in this chapter apply throughout this article.

**Sec. 2.** "Commission" means the alcohol and tobacco commission created by IC 7.1-2-1-1.

**Sec. 3.** "Deal" means each separate game or series of pull tab tickets with a specific form number and a unique serial number.

**Sec. 4.** "Department" refers to the department of state revenue.

**Sec. 5.** "Distributor" means a person licensed to distribute pull tabs, punchboards, and tip boards under IC 4-32.2.

**Sec. 6.** "Electronic gaming device" has the meaning set forth in IC 35-45-5-1.

**Sec. 7.** "Flare" means the board or placard that accompanies each deal of pull tabs on which the following information is printed:

- (1) The game name.
- (2) The manufacturer's name or distinctive logo.
- (3) The form number.
- (4) The ticket count.
- (5) The prize structure.
- (6) The cost per play.
- (7) The game serial number.

**Sec. 8.** "Form number" means the unique number or alphanumeric code that identifies a game's cost per play, ticket

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count, payout structure, and extended payout structure, if any.

Sec. 9. "Gross receipts" means the total amount of money exchanged for the purchase of raffle tickets, pull tabs, punchboards, and tip boards by type II gaming patrons. The term does not include any amount wagered on a winner take all drawing conducted by a retailer under IC 4-36-5-1(b)(2).

Sec. 10. "Licensed premises" has the meaning set forth in IC 7.1-1-3-20.

Sec. 11. "Licensee" means a person holding a license issued under this article.

Sec. 12. "Manufacturer" means a person licensed to manufacture pull tabs, punchboards, and tip boards under IC 4-32.2.

Sec. 13. "Person" means an individual, a sole proprietorship, a partnership, an association, a fiduciary, a corporation, a limited liability company, or any other business entity.

Sec. 14. "Pull tab" has the meaning set forth in IC 4-32.2-2-22.

Sec. 15. "Punchboard" has the meaning set forth in IC 4-32.2-2-23.

Sec. 16. "Raffle" means the selling of tickets or chances to win a prize awarded through a random drawing.

Sec. 17. "Retailer" means a person that:

- (1) is licensed to sell alcoholic beverages under IC 7.1-3 to customers for consumption on the licensed premises of the person's tavern; and
- (2) holds an endorsement to conduct type II gambling games that was issued by the commission under IC 4-36-4.

Sec. 18. "Tavern" means that part of a licensed premises:

- (1) that is a separate room from the public spaces of the licensed premises in which a minor may be present under IC 7.1-5-7-11(a)(16);
- (2) that is used primarily for the serving of alcoholic beverages by the drink to the general public; and
- (3) where food service is secondary to the primary use described in subdivision (2) in the amount of sales.

Sec. 19. "Tip board" has the meaning set forth in IC 4-32.2-2-28.

Sec. 20. "Type II gambling game" means a pull tab, punchboard, or tip board game approved by the Indiana gaming commission for play under IC 4-32.2.

Sec. 21. "Type II gambling operation" means the conduct of gambling games authorized under this article in a tavern.

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### **Chapter 3. Powers and Duties of the Commission**

**Sec. 1. (a) The commission shall supervise and administer type II gambling operations conducted in Indiana under this article.**

**(b) The commission shall enforce this article.**

**Sec. 2. For purposes of conducting an investigation or a proceeding under this article, the commission may do the following:**

- (1) Administer oaths.**
- (2) Take depositions.**
- (3) Issue subpoenas.**
- (4) Compel the attendance of witnesses and the production of books, papers, documents, and other evidence.**

**Sec. 3. (a) The commission may adopt rules under IC 4-22-2 for the establishment, implementation, and operation of type II gambling games and to ensure that the type II gambling operations are consistently operated in a fair and honest manner.**

**(b) The commission may adopt emergency rules under IC 4-22-2-37.1 for the administration of this article if the commission determines that:**

- (1) the need for a rule is so immediate and substantial that rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 are inadequate to address the need; and**
- (2) an emergency rule is likely to address the need.**

**Sec. 4. (a) The commission has the sole authority to issue an endorsement or a license to a person authorizing the person to sell, distribute, or manufacture type II gambling games under this article.**

**(b) The commission may not limit the number of persons licensed under this article.**

### **Chapter 4. Licensing**

**Sec. 1. (a) Subject to section 13 of this chapter, the commission shall issue a retailer's endorsement to an applicant that satisfies the requirements of this article. A retailer's endorsement allows the retailer to conduct type II gaming at only the tavern specified in the retailer's application under section 3(b)(2) of this chapter. An applicant must obtain a separate retailer's endorsement for each tavern at which the applicant wishes to conduct type II gaming.**

**(b) The commission shall affix an endorsement issued under this chapter to the retailer's alcoholic beverage permit that authorizes the retailer to sell alcoholic beverages at the tavern specified in the retailer's application under section 3(b)(2) of this chapter. An endorsement issued under this chapter is valid for one (1) year.**

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**Sec. 2. (a) To qualify for a retailer's endorsement, a person must operate a tavern licensed under IC 7.1-3 to sell alcoholic beverages to customers for consumption on the premises of the tavern.**

**(b) The following may not apply for a retailer's endorsement under this article:**

- (1) A person holding a horse track permit under IC 7.1-3-17.7.**
- (2) A licensed owner of a riverboat licensed under IC 4-33.**
- (3) An operating agent who operates a riverboat in a historic hotel district under IC 4-33.**
- (4) A qualified organization (as defined in IC 4-32.2-2-24).**
- (5) An organization that is eligible to apply for a charity gaming license under IC 4-32.2.**
- (6) A person holding a gambling game license issued under IC 4-35-5.**
- (7) A person holding a permit issued under IC 7.1-3 for a licensed premises that is not a tavern, including holders of the following:**
  - (A) A boat permit.**
  - (B) A hotel permit.**
  - (C) A fraternal club permit.**
  - (D) A resort hotel permit.**
  - (E) An airport permit.**
  - (F) A satellite facility permit.**
  - (G) A microbrewery permit.**
  - (H) A social club permit.**
  - (I) A civic center permit.**
  - (J) A catering hall permit.**
  - (K) A dining car permit.**
  - (L) A temporary event permit.**
  - (M) A permit for any of the following facilities:**
    - (i) A stadium.**
    - (ii) An automobile race track.**
    - (iii) A concert hall.**

**Sec. 3. (a) To obtain a retailer's endorsement, a person must submit an application form to the commission.**

**(b) An application submitted under this section must include at least the following:**

- (1) The name and address of the applicant and of any person holding at least a ten percent (10%) interest in the applicant.**
- (2) The name and address of the tavern for which the applicant seeks a retailer's endorsement.**
- (3) The applicant's consent to credit investigations and**

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criminal record searches.

(4) Waivers and releases signed by the applicant that the commission believes are necessary to ensure a full and complete review of the application.

(c) An applicant must furnish all information requested by the commission, including financial data and documents, certifications, consents, waivers, and individual histories.

(d) The commission shall review the applications for a retailer's endorsement under this chapter and shall inform each applicant of the commission's decision concerning the issuance of a retailer's endorsement.

Sec. 4. The costs of investigating an applicant for a retailer's endorsement under this chapter shall be paid from the initial endorsement fee paid by the applicant under section 5 of this chapter.

Sec. 5. (a) The commission shall charge the following fees for the issuance of a person's initial annual endorsement or license under this chapter:

- (1) Two hundred fifty dollars (\$250) for a retailer's endorsement to conduct a type II gambling operation in the retailer's tavern.
- (2) One thousand dollars (\$1,000) for a distributor's license.
- (3) One thousand five hundred dollars (\$1,500) for a manufacturer's license.

(b) The commission shall charge the following fees for the renewal of a person's annual endorsement or license under this chapter:

- (1) The amount determined under section 6 of this chapter for a retailer's endorsement.
- (2) One thousand dollars (\$1,000) for a distributor's license.
- (3) One thousand five hundred dollars (\$1,500) for a manufacturer's license.

(c) The commission shall deposit all fees collected under this chapter into the enforcement and administration fund established under IC 7.1-4-10.

Sec. 6. (a) For the purposes of subsection (c), a retailer's adjusted gross revenue is an amount equal to the difference between:

- (1) the retailer's total gross revenue from the retailer's type II gambling operations in the preceding year; minus
- (2) the sum of any amounts deducted under subsection (b) in the preceding year.

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(b) To determine the amount of a retailer's adjusted gross revenue from the retailer's type II gambling operations in the preceding year under subsection (a), the retailer shall subtract the following from the retailer's gross receipts:

- (1) An amount equal to the total value of the prizes awarded in the preceding year.
- (2) The sum of the purchase prices paid for type II gambling games dispensed in the retailer's type II gambling operation in the preceding year.
- (3) An amount equal to the amount of license fees paid by the retailer in the preceding year.

(c) The license fee that is charged to a retailer that renews the endorsement must be based on the adjusted gross revenue from the retailer's type II gambling operations in the preceding year, according to the following schedule:

Class	Adjusted Gross Revenues		Fee
	At Least	But Less Than	
A	\$ 0	\$ 15,000	\$ 50
B	\$ 15,000	\$ 25,000	\$ 100
C	\$ 25,000	\$ 50,000	\$ 300
D	\$ 50,000	\$ 75,000	\$ 400
E	\$ 75,000	\$ 100,000	\$ 700
F	\$ 100,000	\$ 150,000	\$ 1,000
G	\$ 150,000	\$ 200,000	\$ 1,500
H	\$ 200,000	\$ 250,000	\$ 1,800
I	\$ 250,000	\$ 300,000	\$ 2,500
J	\$ 300,000	\$ 400,000	\$ 3,250
K	\$ 400,000	\$ 500,000	\$ 5,000
L	\$ 500,000	\$ 750,000	\$ 6,750
M	\$ 750,000	\$ 1,000,000	\$ 9,000
N	\$ 1,000,000	\$ 1,250,000	\$ 11,000
O	\$ 1,250,000	\$ 1,500,000	\$ 13,000
P	\$ 1,500,000	\$ 1,750,000	\$ 15,000
Q	\$ 1,750,000	\$ 2,000,000	\$ 17,000
R	\$ 2,000,000	\$ 2,250,000	\$ 19,000
S	\$ 2,250,000	\$ 2,500,000	\$ 21,000
T	\$ 2,500,000	\$ 3,000,000	\$ 24,000
U	\$ 3,000,000		\$ 26,000

Sec. 7. The commission may issue a distributor's license to an applicant who meets the requirements of this article.

Sec. 8. The commission may issue a manufacturer's license to an applicant who meets the requirements of this article.



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**Sec. 9. (a)** To obtain a distributor's license or a manufacturer's license, a person must submit an application to the commission on a form prescribed by the commission. An applicant shall furnish all information required by the commission.

**(b)** To qualify for a distributor's license or a manufacturer's license under this chapter, a person must also be a licensed distributor or manufacturer under IC 4-32.2.

**Sec. 10.** The commission shall conduct or cause to be conducted a background investigation of each applicant for an endorsement or license issued under this chapter.

**Sec. 11.** Criminal history record information obtained during the investigation of an individual must be maintained by the commission for the term of the endorsement or license and for any subsequent license term.

**Sec. 12.** The commission may require that an application or other document submitted by an applicant or a licensee must be sworn to or affirmed before a notary public.

**Sec. 13.** The commission may not issue an endorsement or a license to an applicant if any of the following apply:

- (1)** The applicant has knowingly made a false statement of material fact to the commission.
- (2)** The applicant is found by the commission to lack the necessary financial stability or responsibility for holding an endorsement or license issued under this chapter.
- (3)** The applicant, if an individual, is less than twenty-one (21) years of age on the date on which the application is received by the commission.
- (4)** The applicant is on the most recent tax warrant list.
- (5)** The applicant, if an individual, has been convicted of or entered a plea of guilty or nolo contendere to a felony within the ten (10) years preceding the date of the endorsement or license application, unless the commission determines that:
  - (A)** the individual has been pardoned or the individual's civil rights have been restored;
  - (B)** after the conviction or entry of the plea, the individual has engaged in the kind of law abiding commerce and good citizenship that would reflect well upon the integrity of the commission; or
  - (C)** the individual has terminated a relationship with a person whose actions directly contributed to the conviction or entry of the plea.
- (6)** The applicant fails to provide all materials requested by

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the commission.

**Sec. 14.** Credit and security investigation information submitted in connection with an application for an endorsement or a license under this article is confidential and may not be disclosed except for official purposes under this article or under a judicial order.

**Sec. 15.** An endorsement or a license issued under this article may not be transferred without prior written approval of the commission.

**Sec. 16.** If the commission proposes to revoke an endorsement or a license issued under this chapter, the licensee may continue to operate under the endorsement or license until the commission has made a decision and all administrative appeals have been exhausted by the licensee.

#### **Chapter 5. Type II Gambling Operations**

**Sec. 1. (a)** A retailer may offer the sale of type II gambling games in accordance with this article.

**(b)** A retailer's endorsement also authorizes a retailer to conduct the following gambling games on the premises of the retailer's tavern:

**(1)** Raffles in which the retailer retains the proceeds of the raffle drawing.

**(2)** Winner take all drawings in which the retailer retains no portion of the amounts wagered.

**(c)** The total amount awarded to:

**(1)** patrons who participate in a raffle permitted under subsection (b)(1); or

**(2)** a patron who participates in a winner take all drawing permitted under subsection (b)(2);

may not exceed three hundred dollars (\$300).

**Sec. 2. (a)** A type II gambling game may be sold under this article only on the premises of the retailer's tavern.

**(b)** Type II gambling games, raffles, and winner take all drawings may not be offered in any part of the retailer's licensed premises in which a minor may be present under IC 7.1-5-7-11(a)(16).

**Sec. 3. (a)** A retailer that obtains a type II gambling game must obtain the type II gambling game from a distributor licensed by the commission under this article.

**(b)** Except as provided in subsection (c), a distributor must obtain at least twenty-five percent (25%) of the type II gambling games purchased by the distributor from a manufacturer that is domiciled in Indiana.

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(c) The commission may excuse a distributor from the requirement set forth in subsection (b) if the commission finds that at least one (1) of the following conditions exists:

- (1) No manufacturer domiciled in Indiana is licensed under this article.
- (2) No manufacturer domiciled in Indiana is in good standing with the requirements of this article.
- (3) All of the licensed manufacturers domiciled in Indiana also hold distributor's licenses.

Sec. 4. (a) A retailer shall maintain accurate records of all financial aspects of the retailer's type II gambling operation. A retailer shall make accurate reports of all financial aspects of the type II gambling operation to the commission within the time established by the commission. The commission shall prescribe forms for this purpose.

(b) As long as a retailer's receipts from the retailer's type II gambling operation remain on the premises of the retailer's tavern, the receipts may not be commingled with the receipts of the retailer's alcoholic beverage sales, food sales, and other related nongambling activities.

Sec. 5. (a) The total prizes awarded for one (1) type II gambling game may not exceed five thousand dollars (\$5,000).

(b) A single prize awarded for one (1) winning ticket in a type II gambling game may not exceed five hundred ninety-nine dollars (\$599).

(c) The selling price for one (1) ticket for a type II gambling game may not exceed one dollar (\$1). Tickets sold for less than one dollar (\$1) must be sold for a price specified in section 6(b) of this chapter.

Sec. 6. (a) Except as provided in subsection (b), a type II gambling game must pay out at least seventy-five percent (75%) and not more than one hundred percent (100%) of the amount wagered.

(b) This subsection applies only to a type II gambling game ticket that is sold for less than one dollar (\$1). A type II gambling game subject to this subsection must comply with the following minimum payout percentages:

Purchase Price	Minimum Payout Percentage
\$0.10	60%
\$0.25	65%
Three (3) tickets for one dollar (\$1)	65%
\$0.50	70%

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(c) A type II gambling game's pay out percentage must be stated on the ticket or on the accompanying flare.

**Sec. 7.** The following persons may not play or participate in any manner in a type II gambling game:

- (1) An employee of the commission.
- (2) A person less than twenty-one (21) years of age.
- (3) The retailer offering the type II gambling game.
- (4) A person employed by the retailer offering the type II gambling game.

#### **Chapter 6. Penalties**

**Sec. 1. (a)** The commission may suspend or revoke the endorsement or license of or levy a civil penalty against a licensee for any of the following:

- (1) Violation of a provision of this article or of a rule of the commission.
- (2) Failure to accurately account for type II gambling games.
- (3) Failure to accurately account for sales proceeds from type II gambling operations.
- (4) Commission of a fraud, deceit, or misrepresentation.
- (5) Conduct prejudicial to public confidence in the commission.

(b) If a violation is of a continuing nature, the commission may impose a civil penalty on a licensee for each day the violation continues.

**Sec. 2.** The commission may impose on a licensee the following civil penalties:

- (1) Not more than one thousand dollars (\$1,000) for the first violation.
- (2) Not more than two thousand five hundred dollars (\$2,500) for the second violation.
- (3) Not more than five thousand dollars (\$5,000) for each additional violation.

**Sec. 3.** In addition to the penalties described in section 2 of this chapter, the commission may do all or any of the following:

- (1) Suspend or revoke an endorsement or a license issued under this article.
- (2) Lengthen a period of suspension of an endorsement or a license issued under this article.
- (3) Impose an additional civil penalty of not more than one hundred dollars (\$100) for each day a civil penalty goes unpaid.

**Sec. 4.** Except as provided in section 5 of this chapter, a person

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who violates this article commits a Class A infraction.

**Sec. 5. A person who knowingly or intentionally:**

- (1) makes a false statement on an application submitted under this article;
- (2) operates a type II gambling operation in which wagering is conducted or is to be conducted in a manner other than the manner required under this article;
- (3) permits a person less than twenty-one (21) years of age to play a type II gambling game; or
- (4) wagers or accepts a wager on a type II gambling game at a location other than a retailer's licensed premises;

commits a Class A misdemeanor.

**Sec. 6. The commission shall deposit all civil penalties collected under this chapter into the enforcement and administration fund established under IC 7.1-4-10.**

#### **Chapter 7. Security**

**Sec. 1. The commission is responsible for security matters under this article. The commission may employ individuals who are necessary to carry out this chapter.**

**Sec. 2. The commission may do any of the following:**

- (1) Investigate an alleged violation of this article.
- (2) Enter the following premises for the performance of the commission's lawful duties:
  - (A) A retailer's tavern.
  - (B) A place in which type II gambling games are being purchased, sold, manufactured, printed, or stored.
- (3) Take necessary equipment from the premises referred to in subdivision (2) for further investigation.
- (4) Obtain full access to all financial records of the alleged violator on request.
- (5) If there is a reason to believe that a violation has occurred, search and inspect the premises where the violation is alleged to have occurred or is occurring. A search under this subdivision may not be conducted unless a warrant has first been obtained by the commission. A contract entered into by the commission may not include a provision allowing for warrantless searches. A warrant may be obtained in the county in which the search will be conducted or in Marion County.
- (6) Seize or take possession of:
  - (A) papers;
  - (B) records;

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- (C) tickets;
- (D) currency; or
- (E) other items;

related to an alleged violation.

**Sec. 3.** The commission shall conduct investigations necessary to ensure the security and integrity of the operation of type II gambling games under this article. The commission may conduct investigations of the following:

- (1) Retailers.
- (2) Applicants for endorsements or licenses issued under this article.
- (3) Licensed manufacturers and distributors.
- (4) Employees of the commission under this article.
- (5) Applicants for contracts or employment with the commission under this article.

**Sec. 4. (a)** The state police department shall, at the request of the commission, provide the following:

- (1) Assistance in obtaining criminal history information relevant to investigations required for honest, secure, exemplary operations under this article.
- (2) Any other assistance requested by the executive director and agreed to by the superintendent of the state police department.

(b) Any other state agency, including the Indiana gaming commission and the Indiana professional licensing agency, shall upon request provide the commission with information relevant to an investigation conducted under this article.

#### **Chapter 8. State Preemption**

**Sec. 1.** Type II gambling games other than those authorized by the commission under this article are not allowed in Indiana.

**Sec. 2.** Local taxes, regardless of type, may not be imposed on the operations of the commission under this article or on the sale of type II gambling games under this article.

**Sec. 3. (a)** Local governmental authority concerning the following is preempted by the state under this article:

- (1) All matters relating to the operation of type II gambling games.
- (2) All matters relating to the possession, transportation, advertising, sale, manufacture, printing, storing, or distribution of type II gambling games.

(b) A county, a municipality, or another political subdivision of the state may not enact an ordinance relating to the commission's

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operations authorized by this article.

**Sec. 4.** A state or local law providing a penalty for or a restriction or prohibition against the operation of type II gambling games or the possession, manufacture, transportation, distribution, advertising, printing, storing, or sale of type II gambling games does not apply to the operation of type II gambling games under this article or to the possession, manufacture, transportation, distribution, advertising, printing, storing, or sale of type II gambling games under this article.

#### **Chapter 9. Type II Gambling Game Excise Tax**

**Sec. 1.** An excise tax is imposed on the distribution of type II gambling games in the amount of ten percent (10%) of the price paid by the retailer that purchases the type II gambling games.

**Sec. 2.** A licensed entity distributing pull tabs, punchboards, or tip boards under this article is liable for the tax. The tax is imposed at the time the licensed entity:

- (1) brings or causes the type II gambling games to be brought into Indiana for distribution;
- (2) distributes type II gambling games in Indiana; or
- (3) transports type II gambling games to retailers in Indiana for resale by those retailers in accordance with this article.

**Sec. 3.** The department shall establish procedures by which each licensee must account for the following:

- (1) The tax collected under this chapter by the licensee.
- (2) The type II gambling games sold by the licensee.
- (3) The funds received for the sale of type II gambling games by the licensee.
- (4) The address of each retailer that purchased pull tabs, punchboards, or tip boards from the licensee in the previous calendar month.

**Sec. 4.** A payment by a licensee to the department may not be in cash. All payments must be in the form of a check, a draft, an electronic funds transfer, or another financial instrument authorized by the department. The department may require a licensee to establish a separate electronic funds transfer account to make payments to the department.

**Sec. 5.** All taxes imposed on a licensee under this chapter shall be remitted to the department on a monthly basis at the times and as directed by the department. The department is responsible for all administrative functions related to the receipt of funds. The department may require a licensee to file with the department reports of the licensee's receipts and transactions in the sale of type

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**II gambling games. The department shall prescribe the form of the reports and the information to be contained in the reports.**

**Sec. 6. The department may at any time perform an audit of the books and records of a licensee to ensure compliance with this article.**

**Sec. 7. The department shall deposit all taxes collected under this chapter in the state general fund.**

SECTION 14. IC 6-2.5-5-43 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 43. Sales of type II gambling games authorized by IC 4-36 are exempt from the state gross retail tax.**

SECTION 15. IC 6-8.1-1-1, AS AMENDED BY P.L.233-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the slot machine wagering tax (IC 4-35-8); **the type II gambling game excise tax (IC 4-36-9)**; the gross income tax (IC 6-2.1) (repealed); the utility receipts and utility services use taxes (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the county adjusted gross income tax (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); the municipal option income tax (IC 6-3.5-8); the auto rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or

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administer.

SECTION 16. IC 35-45-5-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 12. This chapter does not apply to the following gambling games licensed or authorized under IC 4-36:**

- (1) Raffles.
- (2) Winner take all drawings.
- (3) Type II gambling games.

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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